IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6674 of 2003
With
SPECIAL CIVIL APPLICATION No. 14339 of 2003
With
SPECIAL CIVIL APPLICATION No. 14337 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BOTAD NAGARPALIKA - Petitioner(s)

Versus

GITABEN HIRABHAI & 2 - Respondent(s)

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Appearance :
M/S THAKKAR ASSOC. for Petitioner(s) : 1,
MR KISHOR M PAUL for Respondent(s) : 1,
DELETED for Respondent(s) : 2 - 3.
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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 15/09/2005

ORAL JUDGMENT

1. Since in these petitions a common order dated 14/8/2002 passed by Labour Court, Bhavnagar has been

challenged, these petitions have been heard together and are being disposed of by this common order.

2. The petitioner employer has challenged the above mentioned order dated 14/8/2002 passed by Labour Court, Bhavnagar in Recovery Application Nos. 358/93 to 360/93. The workmen concerned in each of the petitions had filed the above mentioned recovery applications seeking recovery of back wages, recovery of certain unpaid dues. The Labour Court allowed all three applications and provided that each workmen shall receive a sum of Rs. 11,742/- from the petitioner. Said direction was given on the basis that the workmen concerned were not paid wages from 1/11/90 the date from which the Labour Court in its award dated 25/11/91 directed payment of back wages till 2/4/92 i.e. the date on which they were actually reinstated.

3. Learned advocate Ms. Pahwa appearing for the petitioner submitted that the award of the Labour Court dated 25/11/91 directing reinstatement and payment of back wages to the workmen from 1/11/90 was not challenged by the petitioner further upon a compromise reached with the workmen in March 1992 wherein they agreed to forego

the back wages on the condition of being reinstated in service. She, therefore, submitted that the order of the Labour Court should be set aside.

3.1 Learned Advocate Mr.Paul appearing for the workmen concerned submitted that even if the back wages are not to be paid to the workmen, from the date of the award of the Labour Court at least they must get their prospective wages since workmen had not given up their claim for such wages.

4. Considering the submissions made, it is clear that the workmen had agreed not to press for back wages on the condition of being reinstated in service. On the basis of this compromise the petitioner did not challenge the award of the Labor Court further. In that view of the matter it would not be appropriate to permit the workmen to insist on being paid the back wages. However, their claim for prospective wages from the date of the award is justified. In facts of the present case, therefore, considering both the periods it would be appropriate to direct that the petitioner pay a sum of Rs. 4,000/- to each workmen instead of Rs. 11, 742/- as directed by the Labour Court. The order of the Labour Court is modified

accordingly. The amount in question be paid within a period of two weeks from today. Petitions are allowed in part and disposed of accordingly. Rule is made absolute to the above extent.

(Akil Kureshi, J.)

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